

Message Text

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PAGE 01 GENEVA 04496 161100Z

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ACTION SS-30

INFO OCT-01 ISO-00 /031 W

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R 160950Z JUL 74

FM USMISSION GENEVA

TO SECSTATE WASHDC 7090

INFO AMEMBASSY MOSCOW

S E C R E T GENEVA 4496

EXDIS

FOR SONNENFELDT AND HARTMAN FROM SHERER

MOSCOW FOR AMBASSADOR STOESSEL

E.O. 11652: GDS

TAGS: PFOR

SUBJECT: CSCE: PACKAGE DEAL FOR RESOLUTION OF
BASKET III PREAMBLE PROBLEM

REF: STATE 152040

1. WE MET WITH KOVALEV AND HIS TEAM ON JULY 15, AT HIS REQUEST, TO DISCUSS NEUTRAL PACKAGE DEAL FOR RESOLUTION OF BASKET III PREAMBLE PROBLEM. IN ACCORDANCE WITH REFTEL WE INFORMED SOVIETS WE HAD INSTRUCTIONS TO ENCOURAGE EARLY TABLING AND ACCEPTANCE OF PACKAGE, AND TO WORK WITH SOVIETS TO ENSURE ITS SUCCESS. KOVALEV SAID HE HAD SIMILAR INSTRUCTIONS.

2. KOVALEV THEN EXPLAINED THAT THE ONE ELEMENT IN NEUTRAL PACKAGE DEAL WHICH SOVIETS FOUND DIFFICULT WAS PARAGRAPH 1B LANGUAGE FOR THE TENTH PRINCIPLE (SEE GENEVA 4435), WHICH WAS UNACCEPTABLE IN PRESENT FORM. KOVALEV NOTED THAT UNDER SOVIET SYSTEM ALL INTERNATIONAL OBLIGATIONS WERE CARRIED OUT, BUT ONLY THOSE INTERNATIONAL OBLIGATIONS WHICH ARE LEGALLY ADOPTED THROUGH SOVIET LEGISLATIVE PROCESS NECESSARILY HAVE AN EFFECT

SECRET

SECRET

PAGE 02 GENEVA 04496 161100Z

ON INTERNAL NATIONAL LEGISLATION. SOVIETS THEREFORE

CONSIDERED IT ABSOLUTELY ESSENTIAL TO MAKE TWO CHANGES IN PARA 1B: (1) CHANGE "COMPLY ... WITH" TO "PAY DUE REGARD TO", AND (2) INSERT "LEGALLY ADOPTED" BEFORE "INTERNATIONAL OBLIGATIONS". SOVIETS SAID THEY HAD NOT WORKED OUT AN ENGLISH-LANGUAGE TEXT, BUT THIS WAS THE SENSE OF THEIR FIRM INSTRUCTIONS.

3. KOVALEV INDICATED THAT, ASIDE FROM THIS POINT, SOVIETS COULD ACCEPT THE PACKAGE DEAL AS IT STANDS. HE ALSO NOTED THAT THEY HAD MADE A MAJOR CONCESSION TO THE WEST IN ADMITTING THE POSSIBILITY OF HAVING A PARAGRAPH 1B, BUT SAID THIS SHOULD BE CAREFULLY BALANCED AGAINST LANGUAGE OF PARA 1A AND NOT NEGATE IT. HE TOLD US SOVIETS HAD ASKED NEUTRALS TO POSTPONE PRESENTATION OF PACKAGE DEAL TO INFORMAL MEETING OF DELEGATION HEADS UNTIL THIS POINT COULD BE WORKED OUT.

4. WE TOLD KOVALEV THAT WE COULD LIVE WITHOUT A PARAGRAPH 1B, BUT THAT THIS IDEA OF BALANCING PARA 1A LANGUAGE ON "LAWS AND REGULATIONS" HAD NOW BEEN WIDELY ACCEPTED, AND WE THOUGHT PARA 1B WOULD HAVE TO BE ACCEPTED IN SOME FORM. WE POINTED OUT THAT LANGUAGE CHANGES PROPOSED BY SOVIETS RAISED FUNDAMENTAL QUESTIONS OF MEANING OF INTERNATIONAL LAW TO EAST AND WEST. IN CONTRAST TO SOVIET SYSTEM, IN MANY WESTERN COUNTRIES INTERNATIONAL LAW IS AUTOMATICALLY ACCEPTED AS LAW OF THE LAND. ONLY A SMALL PROPORTION OF INTERNATIONAL OBLIGATIONS ARE ENACTED INTO NATIONAL LAW. THUS, TO SPEAK ONLY OF "LEGALLY ADOPTED" INTERNATIONAL OBLIGATIONS WOULD BE TOO NARROW TO ACCORD WITH WESTERN VIEW. "PAY DUE REGARD" ALSO PRESENTS PROBLEMS, SINCE IT IMPLIES THAT A STATE WILL PAY ATTENTION TO INTERNATIONAL OBLIGATIONS ONLY WHEN IT HAS AN INTEREST IN DOING SO.

5. WE INDICATED TO SOVIETS THAT WE WOULD BE DISCUSSING THE PACKAGE DEAL AT A NATO DELEGATION HEADS, CAUCUS JULY 16, AND WOULD HAVE A BETTER READING OF ALLIED VIEWS AT THAT TIME. WE REITERATED THAT THE ATMOSPHERE OF THE CONFERENCE IS MOST IMPORTANT FOR WESTERN AC-

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SECRET

PAGE 03 GENEVA 04496 161100Z

CEPTANCE OF PACKAGE DEAL, AND SUGGESTED THAT SOVIETS SHOULD MAKE EVERY EFFORT TO REGISTER THIRD BASKET TEXTS ON ACCESS TO PRINTED INFORMATION AND FAMILY REUNIFICATION AS SOON AS POSSIBLE TO IMPROVE THIS ATMOSPHERE. SOVIETS WENT INTO A DETAILED EXPLANATION OF THEIR POSITIONS ON REMAINING DRAFTING DIFFERENCES IN THESE PAPERS, BUT ADDED NOTHING NEW TO OUR UNDERSTANDING OF THE SITUATION, AND WE CONTINUE TO BELIEVE

THAT DUBININ IS NOT USING FLEXIBILITY AVAILABLE TO HIM HERE (SEE GENEVA 4444). WE POINTED OUT THAT, DESPITE THE DIFFICULTIES, IT WAS MOST IMPORTANT FOR SUCCESS OF PACKAGE DEAL AND TO CREATE POSITIVE WESTERN VIEW OF CSCE THAT THERE BE SOME PROGRESS BEFORE THE SUMMER RECESS. WE NOTED FIVE AREAS IN WHICH THIS MIGHT BE POSSIBLE: ACCESS TO PRINTED INFORMATION, FAMILY REUNIFICATION, CBM ON EXCHANGE OF OBSERVERS, PRINCIPLE OF HUMAN RIGHTS, AND NEUTRAL PACKAGE DEAL. WITHOUT SOME PROGRESS IN THESE AREAS NEGATIVE WESTERN VIEW OF THE CONFERENCE WOULD BE REINFORCED OVER THE SUMMER, WHICH WOULD FURTHER HAMPER NEGOTIATIONS IN THE AUTUMN. WE AGREED TO REMAIN IN TOUCH AS PACKAGE DEAL DEVELOPS.

6. SUBSEQUENT TO OUR MEETING WITH SOVIETS, WE LEARNED THAT NEUTRALS PLAN TO GO AHEAD WITH PRESENTATION OF PACKAGE DEAL AT INFORMAL MEETING OF DELEGATION HEADS AFTERNOON OF JULY 16 DESPITE SOVIET OBJECTIONS TO PARA 1B. IN ACCORDANCE WITH REFTTEL, WE PLAN TO USE NATO CAUCUS MORNING OF JULY 16 TO SUPPORT EARLY ACCEPTANCE. WE BELIEVE THAT CSCE AS A WHOLE HAS NOW TACITLY ACCEPTED CONCEPT OF A PACKAGE DEAL TO RESOLVE BASKET III PREAMBLE PROBLEM, AND EVEN IF PRESENT PACKAGE IS NOT ACCEPTED PRIOR TO THE BREAK, IT WILL EVENTUALLY BE AGREED IN SOME FORM.
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Message Attributes

Automatic Decaptioning: Z
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: COLLECTIVE SECURITY, BASKET III, NEGOTIATIONS, MEETINGS
Control Number: n/a
Copy: SINGLE
Draft Date: 16 JUL 1974
Decaption Date: 28 MAY 2004
Decaption Note: 25 YEAR REVIEW
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: GolinoFR
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1974GENEVA04496
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: GS
Errors: N/A
Film Number: D740190-0319
From: GENEVA
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1974/newtext/t19740746/aaaabnep.tel
Line Count: 141
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION SS
Original Classification: SECRET
Original Handling Restrictions: EXDIS
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 3
Previous Channel Indicators:
Previous Classification: SECRET
Previous Handling Restrictions: EXDIS
Reference: STATE 152040
Review Action: RELEASED, APPROVED
Review Authority: GolinoFR
Review Comment: n/a
Review Content Flags:
Review Date: 10 JUN 2002
Review Event:
Review Exemptions: n/a
Review History: RELEASED <10 JUN 2002 by boyleja>; APPROVED <27 MAR 2003 by GolinoFR>
Review Markings:

Declassified/Released
US Department of State
EO Systematic Review
30 JUN 2005

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: CSCE: PACKAGE DEAL FOR RESOLUTION OF BASKET III PREAMBLE PROBLEM
TAGS: PFOR, (KOVALEV)
To: STATE
Type: TE
Markings: Declassified/Released US Department of State EO Systematic Review 30 JUN 2005